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# Message Text

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ACTION IO-14

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AMCONSUL JERUSALEM
AMEMBASSY PRETORIA

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E.O. 11652: N/A
TAGS: SHUM, IS, SA
SUBJECT: RACISM CONFERENCE: PLO STATEMENT ON BURKAN CASE
AND ISRAEL-SOUTH AFRICA RELATIONS

REF: GENEVA 12878

1. ACCORDING TO THE JERUSALEM POST OF AUGUST 21, THE ISRAELI HIGH COURT OF JUSTICE HAS AGREED TO REHEAR THE CASE OF MOHAMMED SAID BURKAN BY A PANEL OF FIVE JUSTICES. THE HEARING DATE WILL BE SET AFTER THE COURT RECESS ENDS ON SEPTEMBER 1. THUS, THE CASE REMAINS SUB-JUDICE. THE ORIGINAL DECISION,REJECTING BURKAN'S APPEAL THAT HE HAD BEEN ILLEGALLY DISCRIMINATED AGAINST, HAD BEEN GREETED BY CRITICISM IN THE PRESS AND ACADEMIC CIRCLES, WHO FELT THAT THE JUDGES HAD EVADED THE ISSUE AND HAD THROWN OUT THE CASE ON PROCEDURAL GROUNDS.

2. IN A SHARPLY CRITICAL JERUSALEM POST COMMENTARY ON AUGUST 9, ALLAN SHAPIRO, A FORMER PRESIDENT OF THE
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SUPREME COURT, DISSECTED THE HIGH COURT'S RULING AND CONCLUDED THAT THE MEMBERS OF THE HIGH COURT WERE DIVIDED IN THEIR REASONING OF THE CASE. JUSTICE SHAMGAR, HE ARGUES, SEEMED PREPARED TO ACCEPT THE CASE AS ONE INVOLV-ING A BAR ON THE SALE OF AN APARTMENT TO AN ARAB, RATHER THAN AN ALIEN. HOWEVER, FOR JUSTICE COHN, THE MATTER COULD BE NARROWED TO UPHOLDING A BAN ON NON-ISRAELI,

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RATHER THAN NON-JEWISH TENANTS IN THE JEWISH QUARTER.

3. SHAPIRO ALSO NOTES THAT PRESERVING THE JEWISH CHARACTER OF THE JEWISH QUARTER CLEARLY MAY REQUIRE APPLYING ETHNIC CRITERIA IN THE CHOICE OF RESIDENTS, BUT THAT THE COURT DID NOT FACE THIS ISSUE SQUARELY. THE DECISION TO REVIEW THE CASE WILL NOW GIVE THEM ANOTHER CHANCE TO DO SO. (POST ARTICLES BEING POUCHED TO DEPARTMENT AND GENEVA.)

4. ISRAEL-SOUTH AFRICA RELATIONS: THE EMBASSY CONVEYED STATEMENTS ATTRIBUTED TO AMBASSADOR UNNA TO THE FOREIGN MINISTRY WITH A REQUEST THAT THEY VERIFY THE ACCURACY OF THE QUOTATION AND PROVIDE ANY COMMENTS OR BACKGROUND THEY CARED TO OFFER, EXPLAINING THAT THESE ALLEGED REMARKS WERE BEING USED AGAINST ISRAEL AT THE RACISM CONFERENCE. THE FOREIGN MINISTRY PROMISED TO PROVIDE A RESPONSE AS SOON AS POSSIBLE. THE EMBASSY IS UNABLE INDEPENDENTLY TO VERIFY THE ACCURACY OF THE REMARKS. WE NOTE, HOWEVER, THAT AMBASSADOR UNNA LED A BOYCOTT OF THE SOUTH AFRICAN PREMIERE OF THE BIOGRAPHIC PLAY, "GOLDA," TO WHICH THE DIPLOMATIC CORPS HAD BEEN INVITED, BECAUSE IT WAS PRESENTED BEFORE A SEGREGATED AUDIENCE. LEWIS

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